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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,097	11/14/2003	Scott C. Harris	BARCODE-DI	9523
23844	7590	06/01/2007		
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			EXAMINER WALSH, DANIEL I	
			ART UNIT	PAPER NUMBER
			2876	
			MAIL DATE	DELIVERY MODE
			06/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/714,097

Applicant(s)

HARRIS, SCOTT C.

Examiner

Daniel I. Walsh

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 28-31, 38-41 and 48 is/are pending in the application.
- 4a) Of the above claim(s) 38-41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19, 28-31 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Receipt is acknowledged of the Amendment received on 3-15-07.

#### ***Election/Restrictions***

2. This application contains claims directed to the following patentably distinct species:

I) Using a communication device to fetch information from a server (claims 18, 19, 28-31, and 48).

II) Using a communication device to access a website (claims 38-41).

The species are independent or distinct because there are not obvious variants, and are materially different processes/apparatus.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 48 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with Scott Harris on 5-16-07 a provisional election was made with traverse to prosecute the invention of embodiment 1, claims 18, 19, 28-31 and 48. Affirmation of this election must be made by applicant in replying to this Office action. Claims 38-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 18-19 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (US 2002/0065728).

Re claim 18, Ogasawara (US 2002/0065728) teaches a portable communication device with a camera and a display unit therein, to obtain an image of a barcode (FIG. 14); using said portable communication device to make a telephone call (inherent property of a telephone), using the portable communication device for sending information indicative of the barcode to a remote server and receiving and displaying on the display of the portable communication device, more information about the barcode from the remote server (remote server 26/server 210 that can be remote, and paragraphs [0143] and [0144]).

Re claim 19 and 48, the limitations have been discussed above. Paragraph [0123] teaches the camera can obtain video to capture the barcode, which is interpreted as a barcode image (frame by frame). This information is displayed on the phone/terminal/videophone.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara, as discussed above, in view of Schuessler (US 2001/0045461).

The teachings of Ogasawara have been discussed above.

Ogasawara is silent to the code containing first and second parts where the second part has more information than the first part.

Schuessler teaches a dual type barcode with a first part that is interpreted by a first bar code scanning process to obtain information and a second part which is interpreted by a second bar code scanning process to obtain second information that has more information than the first information (abstract) and they are scanned in different directions (FIG. 1). The Examiner notes that the 2d code (non-linear) stores more information than the linear code, and, as they are different format codes, are interpreted as being scanned in different processes. The Examiner notes that such 2d codes are understood to be scanned in the two directions, which would meet the limitation of a direction different than the 1d/linear code scanning.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Ogasawara with those of Schuessler.

One would have been motivated to do this to encode more information into a bar code.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara/Schuessler, as discussed above, in view of Kaufman et al., as cited in the previous Office Action.

The teachings of Ogasawara/Schuessler have been discussed above.

Ogasawara/Schuessler are silent to second information from a color/grayscale.

Kaufman et al. teaches color being used to store information in a barcode (claims 1-8+).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Ogasawara/Schuessler with those of Kaufman et al.

One would have been motivated to do this to have a portion to provide additional data storage, along with robustness, reduced errors, and alternative identification.

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection (see above).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Walsh whose telephone number is (571) 272-2409. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

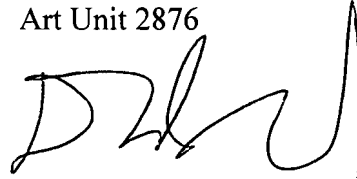
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Art Unit: 2876

D. Walsh

Daniel I Walsh  
Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'D I Walsh', with a stylized, elongated final stroke.

DANIEL WALSH  
PRIMARY EXAMINER